

Application Number 10/033,305  
Responsive to Office Action mailed April 28, 2006

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REMARKS

This amendment is responsive to the Office Action dated April 28, 2006. Applicant has amended claims 1, 2, 10, 18, 26, 35, 44, 52, 60, 69, 78, 86, 94, 103, 112, 120, 128, and cancelled claim 137. Claims 1-136 are pending.

Allowable Subject Matter

In the Office Action, the Examiner indicated that claims 78-85 and 103-119 are allowable in their present form.

Interview Summary

Applicant thanks the Examiner for the telephonic interview on July 13, 2006. In the interview, Kent Sieffert (Applicant's representative) and the Examiner discussed allowable independent claims 78 and 103. Applicant suggested certain claim amendments to place the remaining independent claims in a condition for allowance in view of the allowable claims. The Examiner reviewed the proposed claim amendments and agreed the claim amendments overcame the art of record. In this Amendment, Applicant has submitted claim amendments consistent with the proposed amendments discussed with the Examiner.

Claim Rejection Under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 86-93 and 120-127 under 35 U.S.C. 112, first paragraph. In particular, the Examiner stated that the specification fails to disclose the limitation of a module receiving a request from a source computer to transfer partial data to a requesting computer before receiving the entire file.

Applicant respectfully traverses the rejection. For example, support for the requirement that the source computer provide the request to transfer data can be found on pg. 25, ll. 17-21 describes a "push" model where the starting node 2201 (i.e., the source computer) sends messages to the peer nodes to initiate transfer of data. In addition, support for the requirement that the request may occur prior to the peer nodes receiving the entire file can be found on pg. 22, ll. 1-18 where the specification describes peer nodes as tracking the arrival of individual packets

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when downloading a file so that the packets may be encoded and forwarded to other nodes needing the file prior to the intermediate node completing the download of the file.

Applicant submits that claims 86-93 and 120-127 satisfy 35 U.S.C. 112, first paragraph, and request withdrawal of the rejection.

**Claim Rejection Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claims 1-6, 8-15, 17-23, 25-31, 33-41, 43-49, 51-57, 59-65, 67-74, 76, 77, 94-99, 101, 102, 128-133, 135 and 136 under 35 U.S.C. 103(a) as being unpatentable over Nair (US 2004-0193900) in view of Carpentier (US 2005-0010792) and further in view of Boyd (US 2002/0003541) in further view of Li (US 2004/0205093). The Examiner also rejected claims 7, 16, 24, 32, 42, 50, 58, 66, 75 and 134 under 35 U.S.C. 103(a) as being unpatentable over Nair in view of Carpentier and further in view of Boyd in further view of Li in view of Shuster (US 6,771,674).

As discussed above, Applicant has amended the claims in a manner consistent with the allowable independent claims. Support for the amendments can be found throughout the specification and the figures. For example, pg. 22, ll. 1-18 of the specification describes peer nodes as tracking the arrival of individual packets when downloading a file so that the packets may be encoded and forwarded to other nodes needing the file prior to the intermediate nodes completing the download of the file. This process is also illustrated in FIG. 2. Pg. 24, ll. 10-18 of the present specification also describes a software module, referred to as a “clerver”, that allows a peer device to operate as both a client and a server to “simultaneously” send and receive packets.

As recognized by the Examiner in the Office Action, the prior art of record fails to describe techniques for transferring data in which peer devices send partial portions of the data to the requesting computer prior to the peer nodes concluding download of the data.<sup>1</sup> Accordingly, Applicant submits that the claim amendments overcome the rejections under 35 USC 103(a).

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<sup>1</sup> Office Action, pg. 10-11.

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### CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

July 25, 2006

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